



~~June 19, 2007 CPC~~  
~~July 17, 2007 CPC~~  
August 22, 2007 BS

STAFF'S  
REQUEST ANALYSIS  
AND  
RECOMMENDATION

07SN0336

360 Capital Partnership, LLC

Matoaca Magisterial District  
Crenshaw Elementary; Bailey Bridge Middle; and Manchester High Schools Attendance Zones  
East and west lines of Lonas Parkway

REQUEST: Conditional Use to permit multifamily and townhouse uses plus Conditional Use  
Planned Development to permit exceptions to Ordinance requirements.

PROPOSED LAND USE:

A mix of multifamily and townhouse residential uses, to include attached and detached units, up to a maximum of 575 dwelling units, would be permitted with this Conditional Use. It should be noted that, as styled, all C-4 uses would continue to also be permitted.

PLANNING COMMISSION RECOMMENDATION

RECOMMEND APPROVAL AND ACCEPTANCE OF THE PROFFERED CONDITIONS ON  
PAGES 2 THROUGH 5.

AYES: MESSRS. GECKER, GULLEY, BASS AND WILSON.  
ABSENT: MR. LITTON.

STAFF RECOMMENDATION

Recommend denial for the following reasons:

- A. Although the Powhite/Route 288 Development Area Plan suggests the property is appropriate regional mixed use uses, to include high density residential (7.1 units/acre or more) uses, the current zoning allows more high density residential than the Plan would suggest as appropriate.

- B. The proffered conditions address the impact of this development on necessary capital facilities, as outlined in the Zoning Ordinance and Comprehensive Plan. Specifically, the needs for roads, schools, parks, libraries and fire stations is identified in the Public Facilities Plan, the Thoroughfare Plan and the Capital Improvement Program and the impact of this development is discussed herein. The proffered conditions mitigate the impact on capital facilities, thereby insuring adequate service levels are maintained and protecting the health, safety and welfare of County citizens.
- C. The security concerns, as expressed herein, have not been addressed.

(NOTE: CONDITIONS MAY BE IMPOSED OR THE PROPERTY OWNER(S) MAY PROFFER CONDITIONS. THE CONDITIONS NOTED WITH "STAFF/CPC" WERE AGREED UPON BY BOTH STAFF AND THE COMMISSION. CONDITIONS WITH ONLY A "STAFF" ARE RECOMMENDED SOLELY BY STAFF. CONDITIONS WITH ONLY A "CPC" ARE ADDITIONAL CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION.)

#### PROFFERED CONDITIONS

The property owner and applicant in this case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property under consideration will be developed according to the following proffers if, and only if, the request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall immediately be null and void and of no further force or effect.

THE FOLLOWING CONDITIONS, AS WELL AS THE CONDITIONS OF CASE NOS. 95SN0197 AND 97SN0239 AS AMENDED HEREIN, SHALL ONLY APPLY TO THE DEVELOPMENT OF RESIDENTIAL USES AS PERMITTED AND REGULATED PURSUANT TO THE CONDITIONAL USE AND CUPD REQUESTED HEREWITH. TO THE EXTENT NOT UTILIZED FOR SUCH RESIDENTIAL PURPOSES, THE CONDITIONS OF CASE NOS. 95SN0197 AND 97SN0239 SHALL CONTINUE TO APPLY.

- (CPC) 1. Master Plan. The Textual Statement dated July 6, 2007 shall be the Master Plan. (P)
- (CPC) 2. Uses. Only the following uses shall be permitted on the Property:
- a. model homes as restricted in the R-88 District;
  - b. condominiums, attached or detached, which shall be submitted to the provisions of the Virginia Condominium Act, and uses customarily accessory thereto;
  - c. townhomes and uses customarily accessory thereto;

- d. recreational facilities and grounds primarily serving this development subject to the following requirements:
  - i. With the exception of playground areas which accommodate swings, jungle gyms, or similar facilities and tennis courts, any outdoor play fields, community swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from adjacent properties zoned or designated on the County's Comprehensive Plan for residential use, a minimum of one hundred (100) feet from any existing or proposed single family residential lot line, and a minimum of fifty (50) feet from any existing or proposed road.
  - ii. Within the one hundred (100) and fifty (50) foot setbacks, a fifty (50) foot buffer shall be provided along the perimeter of all active recreational facilities except where adjacent to any existing or proposed road. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
  - iii. Any playground areas (i.e. areas accommodating swings, jungle gyms or similar such facilities) and tennis courts shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
  - iv. Nothing within this condition shall prevent development of indoor facilities and/or parking within the one hundred (100) foot setback.
  - v. There shall be no outside public address system.
  - vi. The location of all active recreational uses shall be identified in conjunction with the submittal of tentative subdivision and/or site plans.
  - vii. Active recreational area(s) shall be identified on the record plat and/or site plan along with the proposed recreational uses and required conditions.
- e. sales office(s) located in modular unit(s). (P)

(CPC) 3. Cash Proffer. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, prior to the issuance of a building

permit, for infrastructure improvements within the service district for the Property:

- a. \$15,600.00 per dwelling unit, if paid prior to July 1, 2007, or the amount approved by the Board of Supervisors, not to exceed \$15,600.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007.
- b. Provided, however, that if any building permits issued on the Property are for senior housing, as defined in the proffer on age-restriction, the applicant, sub-divider, or assignee(s) shall pay \$10,269.00 per dwelling unit if paid prior to July 1, 2007, or the amount approved by the Board of Supervisors, not to exceed \$10,269.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2006 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2007. At the time of payment, the \$10,269.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915 for roads, and \$404 for fire stations. Payments in excess of \$10,269.00 shall be prorated as set forth above.

Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.

Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees, in a manner as determined by the County. (B&M)

- (CPC)
4. Age Restriction. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Act, and such other applicable federal, state or local legal requirements, dwelling units designated as age-restricted shall be restricted to “housing for older persons” as defined in the Virginia Fair Housing Law and no persons under 19 years of age shall reside therein. Any lots for age-restricted dwelling units shall be grouped together on a particular portion of the Property and shall not be scattered among other residential units. At the time of recordation of a subdivision plat or the approval of any site plan, the lots and/or dwelling units shall also note the restriction. To the extent a subdivision plat is not required, the age restriction shall be recorded as a restrictive covenant prior to site plan approval. (P)

- (CPC) 5. Deletion of Proffered Conditions. Proffered Conditions 10, 11 and 14 of Case No. 95SN0197 are hereby deleted. (P)

### GENERAL INFORMATION

Location:

East and west lines of Lonas Parkway, south of Hull Street Road. Tax IDs 737-678-8211; 737-679-1634; 738-679-Part of 1556; and 738-680-Parts of 2767 and 8161.

Existing Zoning:

C-4 with Conditional Use Planned Development

Size:

71.9 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North, South and West – C-4 with Conditional Use Planned Development; Multifamily, commercial or vacant  
East - R-9; Single-family residential

### UTILITIES

Public Water System:

The public water system is available to serve this site. A twelve (12) inch water line extends along Lonas Parkway from Hull Street Road to the southern boundary of the request site. A twelve (12) inch water line extends along Bridgewood Road. A twelve (12) inch water line extends along a portion of Valley Crest Drive and transitions to an eight (8) inch line before terminating approximately seventy (70) feet south of this site. Eight (8) inch water lines were stubbed out from the twelve (12) inch line along Lonas Parkway to serve future development on this site. To insure water quality and provide for emergency feeds, internal looping of these water lines will be required plus additional connections will be required to the water lines along Bridgewood Road and Valley Crest Drive. Use of the public water system is required as a condition of zoning. (Proffered Condition 4, Case 95SN0197)

### Public Wastewater System:

The public wastewater system is available to serve this site. There is a thirty (30) inch wastewater trunk line extending along Nuttree Branch of Swift Creek, adjacent to the western boundary of this site. A ten (10) inch wastewater sub-trunk line extends from the thirty (30) inch line and transitions to an eight (8) inch line along the northern portion of Lonas Parkway. The available capacity in the existing on-site wastewater lines will have to be determined. Use of the public wastewater system is required as a condition of zoning. (Proffered Condition 4, Case 95SN0197)

## ENVIRONMENTAL

### Drainage and Erosion:

The property drains to Nuttree Branch and then into Swift Creek. There are no existing or anticipated on- or off-site drainage or erosion problems.

### Water Quality:

Nuttree Branch, which is the western property line, is a perennial stream and is subject to a 100-foot conservation buffer adjacent to the wetlands. Approximately fifty percent (50%) of the property that lies west of Lonas Parkway is located within the Resource Protection Area (RPA), inside of which uses are very limited.

## PUBLIC FACILITIES

The need for fire, school, library, park and transportation facilities is identified in the Public Facilities Plan, the Thoroughfare Plan and the Capital Improvement Program.

### Fire Service:

The Public Facilities Plan indicates that fire and emergency medical service (EMS) calls are expected to increase 44 to 78 percent by 2022. Six (6) new fire/rescue stations are recommended for construction by 2022 in the Plan. In addition to the new stations, the Plan also recommends the expansion of five (5) existing stations.

Based on 575 dwelling units, this request will generate approximately 149 calls for fire and emergency medical service each year. The applicant has addressed the impact on fire and EMS. (Proffered Condition 3)

The Clover Hill Fire Station, Company #7, currently provides fire protection and emergency medical service. When the property is developed, the number of hydrants, quantity of water needed for fire protection, and access requirements will be evaluated during the plans review process.

### Schools:

Approximately 305 (Elementary: 132, Middle: 75, High: 98) students will be generated by this development. This site lies in the Crenshaw Elementary School attendance zone: capacity - 707, enrollment - 752; Bailey Bridge Middle School zone: capacity - 1,521, enrollment - 1,563; and Manchester High School zone: capacity - 2,107, enrollment - 2,149. The enrollment is based on September 29, 2006 and the capacity is as of 2006-2007.

This request will have an impact on the elementary, middle and high schools involved. There are currently seven (7) trailers at Crenshaw and five (5) at Manchester High Schools. Tomahawk Creek Middle School is scheduled to open in the fall of 2008 and will provide relief for schools in this area of the county.

This case combined with other residential developments and zoning cases in the area, will continue to push these schools over capacity, necessitating some form of relief in the future. The applicant has addressed the impact of the development on schools. (Proffered Condition 3)

### Libraries:

Consistent with the Board of Supervisors' policy, the impact of development on library services is assessed Countywide. Based on projected population growth, the Public Facilities Plan identifies a need for additional library space throughout the County.

Development of the property would most likely impact the existing Clover Hill Library, the existing La Prade Library or a proposed new branch in the Reams-Gordon area. A need for additional library space in this area of the county is identified in the Public Facilities Plan. The applicant has offered measures to assist in addressing the impact of this development on library facilities. (Proffered Condition 3)

### Parks and Recreation:

The Parks and Recreation Department operates forty-one (41) parks and athletic complexes and selected athletic fields and recreation facilities on all sixty-one (61) school sites, totaling over 3,800 acres.

County parks and recreation needs are documented in the Public Facilities Plan, the Riverfront Plan, the Bikeways Plan and various comprehensive plan updates.

The current Capital Improvement Plan documents development costs to expand the park system to meet growth within the County and also infrastructure improvements to aging facilities throughout the system. This spending plan totals \$ 31,100,000 through the year 2012. The department has a current inventory of land and facilities in excess of \$72,000,000

The Public Facilities Plan identifies the need for three (3) regional, seven (7) community and twenty-nine (29) neighborhood parks by 2020. In addition, there is currently a shortage of community and neighborhood park acreage in the county. A need for 354 acres of regional park space; 252 acres of community park space; and 199 acres of neighborhood park space by 2020 is also identified. The Plan identifies the need for linear parks and resource-based special purpose parks (historical, cultural and environmental) and makes suggestions for their locations. The Plan addresses the need for additional recreational facilities to include sports fields, trails, playgrounds, court games, senior centers and picnicking area/shelters at existing parks to complete build-out, as well as the need for water access to the James and Appomattox Rivers and their major tributaries, Swift and Falling Creeks. Co-location with middle and elementary schools is desired.

The applicant has offered measures to address the impact of this proposed development on the infrastructure needs of Parks and Recreation. (Proffered Condition 3)

#### Transportation:

Proffered Condition 3 of Case 97SN0239 established a maximum equivalent density for the overall development. Because the applicant is not requesting to modify this maximum density, this request will have no impact on the traffic this development is anticipated to generate.

Item 2 of the Textual Statement establishes a maximum density of 575 dwelling units. Based on trip generation rates for apartments, development of the property could generate approximately 3,600 average daily trips. This traffic will be distributed to Hull Street Road (Route 360) which had a 2005 traffic count of 43,814 vehicles per day between Route 288 and Genito Road and was functioning at an acceptable level. (Level of Service D)

The Zoning Ordinance allows streets within condominium and townhouse developments to be privately maintained. Staff recommends that all of the main streets within this project be accepted into the State Highway System. Having these streets accepted into the State Highway System will ensure their long-term maintenance. Item 3 of the Textual Statement requires that all streets which accommodate general traffic circulation will be designed and constructed to state (i.e., the Virginia Department of Transportation) standards and taken into the State System.

Area roads need to be improved to address safety and accommodate the increase in traffic generated by this development. The applicant has proffered to contribute cash, in an amount consistent with the Board of Supervisors' Policy, towards mitigating the traffic impact of this development (Proffered Condition 3). Cash proffers alone will not cover the cost of the road improvements needed in this area. There are two (2) projects in the VDOT Six-Year Improvement Program for this area. The first project involves widening Route 360 to six (6) and eight (8) lanes from Swift Creek to Winterpock Road. The construction of the westbound lanes was substantially completed and opened to traffic in



November. The final completion of the westbound lanes and the widening of eastbound lanes will be completed in 2007. The second project involves reconstructing Bailey Bridge Road as a two-lane road from Claypoint Road to Manchester High School. Preliminary plans have been developed; however, the project is not anticipated to begin until Fall 2010.

Financial Impact on Capital Facilities:

		PER UNIT
Potential Number of New Dwelling Units	575*	1.00
Population Increase	1564.00	2.72
Number of New Students		
Elementary	133.98	0.23
Middle	74.75	0.13
High	97.18	0.17
TOTAL	305.90	0.53
Net Cost for Schools	\$3,075,100	\$5,348
Net Cost for Parks	347,300	604
Net Cost for Libraries	200,675	349
Net Cost for Fire Stations	232,875	405
Average Net Cost for Roads	5,141,650	8,942
TOTAL NET COST	\$8,997,600	\$15,648

\* Based on the Textual Statement (Item 2). The actual number of dwelling units and the corresponding impact may vary

As noted, this proposed development will have an impact on capital facilities. Staff has calculated the fiscal impact of every new dwelling unit on schools, roads, parks, libraries, and fire stations at \$15,648 per unit. The applicant has been advised that a maximum proffer of \$15,600 per unit would defray the cost of the capital facilities necessitated by this proposed development. The applicant has been further advised that a maximum proffer of \$10,269 per dwelling unit would defray the impact of the age-restricted portion of the development, as it will have no increased impact on school facilities.

Consistent with the Board of Supervisors' policy, and proffers accepted from other applicants, the applicant has offered cash to assist in defraying the cost of this proposed zoning on such capital facilities (Proffered Condition 3).

Note that circumstances relevant to this case, as presented by the applicant, have been reviewed and it has been determined that it is appropriate to accept the maximum cash proffer in this case.

#### Police:

The applicant is proposing to build a high-density residential project. With the support of the county administration, the Police Department seeks to have developers of new high density residential projects implement its recommendations for Crime Prevention Through Environmental Design (CPTED) which are planning and designing principles that constitute proactive crime prevention tools. Through CPTED principles, proper design and effective use of the environment can lead to a reduction in the fear and incidence of crime. In addition, the Police Department recommends that high-density residential projects either enter into a contract for the permanent presence of a police officer on the premises or annually submit a security plan for review and approval.

The applicant has not addressed any of the Police Department's security concerns in the submissions; accordingly, the Police Department does not support this request.

### LAND USE

#### Comprehensive Plan:

Lies within the boundaries of the Powhite/Route 288 Area Development Plan which suggests the property is appropriate for regional mixed use uses, to include high density residential (7.1 units per acre or more) uses.

#### Area Development Trends:

The subject property lies within a mixed-use project in the southeast quadrant of Hull Street Road and Route 288. Current uses in the project consist of retail and multifamily uses. It is anticipated that a mix of uses will continue within this larger regional node. However, the amount of high density residential suggested by the Plan has already been developed.

#### Zoning History:

On May 24, 1995, the Board of Supervisors, upon a favorable recommendation from the Planning Commission, approved rezoning with Conditional Use on property which included the request site (Case 95SN0197). With the approval of Case 95SN0197 residential development was limited to a maximum of 450 dwelling units. Those units have been developed on adjacent property to the south.

On April 15, 1997, the Planning Commission granted Schematic Plan approval of a mixed-use project, which included the request site (Case 97PS0265). The schematic plan established the boundaries between individual uses and addressed transitional concerns. Property encompassing the request site was identified on the schematic plan as a regional business parcel. If this request is approved a revised schematic plan must be approved.

Uses:

Case 95SN0197 permits development of the property for Regional Business (C-4) uses. The applicant requests a Conditional Use and an amendment to Case 98SN0137 to permit the option of developing multifamily and townhouse residential uses on the property, as well as recreational facilities (Proffered Condition 2). Multifamily dwelling units would not exceed a height of four (4) stories and may be attached or detached (Textual Statement Items 19 and 20). It should be noted, uses currently allowed on the property would continue to be allowed with approval of this case.

Model homes, as restricted in the Residential (R-88) District are also requested.

Site Design:

The request property lies within the 360 Corridor West Area Highway Corridor District. The purpose of this district's standards is to recognize specified areas of the County as unique and to enhance patterns of development in those areas. Except as addressed by existing conditions of zoning, development of the site must conform to the Highway Corridor District standards and the Emerging Growth Area District requirements of the Zoning Ordinance. Together, these standards address access, parking, landscaping, architectural treatment, setbacks, signs, buffers, pedestrian access, utilities and screening of dumpsters and loading areas.

Development of multifamily residential or condominium uses would comply with the requirements established in the Textual Statement, Items 11 through 19. These requirements address parcel area, density, setbacks from roads and property lines, distance between buildings, setbacks for driveways and parking areas, and building height, among other standards. In addition, these units could be attached or detached, per these standards. Development of residential townhouse uses would comply with the requirements established in Items 20 through 30 of the Textual Statement. These requirements include percentage of lot coverage, density, setbacks, and driveways and parking areas.

It should be noted, through this request for any residential development, the applicant is deleting Proffered Conditions 10, 11 and 14 of Case 95SN0197, relative to architectural standards, minimum square footage for townhouses and parking lot lighting (Proffered Condition 6). These proffers would remain in effect for any non-residential development on the property. Architectural standards and parking lot lighting will be addressed through Ordinance requirements.

### Architectural Treatment:

Currently, within the Route 360 Corridor West Area, the Ordinance requires a clearly identifiable architectural theme for a project that provides for building elements that break up large building masses with a pedestrian scale environment between parking areas and buildings. The architectural treatment of buildings must be compatible with buildings located within the same project or within the same block or directly across any road, as determined by the Director of Planning. Compatibility may be achieved through the use of similar building massing, materials, scale, colors and other architectural features.

In addition, the applicant has provided that, for any townhouse development, in conjunction with tentative subdivision plan submission, architectural and landscaping plans shall be submitted to the Planning Department for approval. (Textual Statement Item 34)

### Density:

This request would permit the option to develop residential multifamily and townhouse uses with no minimum acreage requirements (Textual Statement Items 11 and 30). Development is to be limited to 575 dwelling units, yielding a density of approximately eight (8) dwelling units per acre (Textual Statement Items 2 and 31). This density is based upon the total acreage being developed for residential uses.

### Parking and Driveways:

The Ordinance requires the provision of two (2) off-street parking spaces for each dwelling unit, except that age restricted multifamily dwellings require a minimum of 1.2 parking spaces for each unit. An exception is requested to permit on street parking and parking within garages to be credited towards this minimum requirement (Textual Statement Item 7). While staff supports such exception since it reduces the amount of impervious area and therefore, the impact on water quality, the developer and future owners should be cautioned that it will not be possible in the future to convert garages into living space.

Driveways and parking areas are to have concrete curbs and gutters however, there are to be no setbacks for such structures. (Textual Statement Items 16 and 28)

### Garages:

The applicant has indicated the probability of front-loaded garages within this development, and has provided such garages would be no closer to the street than four (4) feet beyond the front facade of the dwelling unit (Textual Statement Item 8). In an effort to minimize the impact of front-loaded garages from the street, the Commission's policy suggests such garages be no closer to the street than the front facade of the dwelling unit.

The applicant's proposal is not consistent with the policy. Staff recommends provision of the typical standard for front loaded garages.

#### Sidewalks and Street Trees:

The applicant has agreed to provide sidewalks along both sides of all roads that have homes fronting the road and street trees along each side of roads and driveways serving individual dwelling units (Textual Statement Items 5 and 6). The exact location of sidewalks is to be determined at time of tentative subdivision or site plan review.

#### Age Restriction:

Proffered Condition 4 provides for the option of limiting occupancy of some or all of the proposed dwelling units to "housing for older persons" as defined in the Virginia Fair Housing Law. While during the initial marketing of the project this restriction may be clear to prospective occupants, there is a risk that long-term, dwelling units may be sold or rented to individuals that do not meet this age-restriction. Given staff's inability to pro-actively enforce this condition prior to the purchase and occupancy of dwelling units, staff recommends that this proffer not be accepted.

#### Recreational Facilities and Focal Point:

Passive and active recreational uses limited to facilities and uses that primarily serve the surrounding residential community would be permitted (Proffered Condition 2). The proffered condition provides for setback restrictions and buffers to minimize the impact of such recreational uses on surrounding residential development.

The applicant has offered a minimum of 0.75 acres of open space to serve as a focal point as one enters the project (Textual Statement Item 4). This is typical for this type of development proposal.

#### Buffers and Screening:

Adjacent property to the east is zoned Residential (R-9) and is occupied by single family residences in Glen Tara subdivision. The Zoning Ordinance requires the provision of a seventy-five (75) foot buffer on C-4 property where adjacent to residentially zoned properties. With the development of residential uses, the applicant is proposing a fifty (50) foot buffer adjacent to these properties (Textual Statement, Item 11). Further, all required buffers for townhouse development are to be located within recorded open space (Textual Statement Item 30).

### CONCLUSIONS

Although the Powhite/Route 288 Development Area Plan suggests the property is appropriate for regional mixed use uses, to include high density residential (7.1 units/acre or more) uses, the current zoning allows more high-density residential than the Plan would suggest as appropriate.

Additional high-density residential development is not in keeping with the recommendations of the Plan. Further, the security concerns as expressed herein and location of front loaded garages have not been addressed.

Given these considerations, denial of this request is recommended.

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## CASE HISTORY

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Applicant (6/13/07):

An amended Textual Statement and proffered conditions were submitted.

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Planning Commission Meeting (6/19/07):

On their own motion, the Commission deferred this case to July 17, 2007.

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Staff (6/20/07):

The applicant was advised in writing that any significant, new or revised information should be submitted no later than June 25, 2007, for consideration at the Commission's July 17, 2007, public hearing.

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Applicant (7/6/07):

An amended Textual Statement and proffered conditions were submitted.

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Applicant (7/9/07):

Amended proffers were submitted.

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Planning Commission Meeting (7/17/07):

The applicant did not accept staff's recommendation but did accept the Commission's recommendation. There was no opposition present.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission recommended approval and acceptance of the proffered conditions on pages 2 through 5.

AYES: Messrs. Gecker, Gulley, Bass and Wilson.  
ABSENT: Mr. Litton.

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The Board of Supervisors, on Wednesday, August 22, 2007, beginning at 6:30 p.m., will take under consideration this request.

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## THIRD AMENDED AND RESTATED TEXTUAL STATEMENT

July 6, 2007

This is a request to amend the zoning on approximately 71.9 acres of the property (Tax IDs 738-680-2767 (part), 738-680-8161 (part), 738-679-1556 (part) 737-679-1634 and 737-678-8211) (the "Property") under consideration to add to the current C-4 zoning a Conditional Use that will also permit development of a residential community on the Property including detached condominiums, condominiums, and/or townhomes, subject to the following:

### APPLICABLE TO ALL

1. Mixing of Uses. Within the Property there shall be no "mixing" of uses (e.g., if the Property is to be developed for condominiums, all of the Property shall be developed as condominiums, or if the Property is developed for townhomes, all of the Property shall be developed for townhomes, or if the Property is developed for commercial uses, all of the Property shall be developed for commercial uses). Provided, however, the mixing of uses may be permitted if a conceptual plan is submitted for review and approval and the conceptual plan addresses land use transitions and compatibility between uses within the Property itself as well as with adjacent properties. Consideration of land use compatibility and transitions may include, but not necessarily be limited to, the exact location of uses, buffers, and site design. Such conceptual plan shall be approved by either the Planning Commission or the Planning Department, at the election of the developer, and such review shall be subject to appeal in accordance with provisions of the Zoning Ordinance for site plan approval.
2. Density. The overall density shall not exceed five hundred seventy-five (575) dwelling units on the Property. To the extent commercial uses are developed on the Property, permitted residential density shall be reduced by eight (8) units per acre for every one (1) acre of commercial development or portion thereof (i.e., should one-half (1/2) acre of commercial uses be developed, the overall residential density shall be reduced by four (4) units).
3. Public Streets. All roads that accommodate general traffic circulation, as determined by the Transportation Department, shall be constructed to VDOT standards and accepted into the State System.
4. Focal Point. A minimum of 0.75 acres, in the aggregate, of open space shall be located and positioned to provide a "focal point" or "focal points" as one enters the Property. Part of this area shall be "hardscaped" and have benches and other amenities that accommodate and facilitate outdoor gatherings. At least one focal point shall be developed concurrently with the development of the first phase of the Property, and its exact design and location shall be approved at the time of tentative subdivision and/or site plan review.
5. Street Trees. Street trees shall be planted or retained along each side of roads and driveways except for driveways serving individual dwelling units. The exact spacing,

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species and size shall be approved at the time of tentative subdivision and/or site plan review.

6. Sidewalks. Sidewalks shall be provided that facilitate pedestrian access within the Development, and to the overall project. The exact location and design of the sidewalks shall be determined by the County at the time of tentative subdivision and/or site plan review; provided, however, that, unless otherwise approved by the Planning Commission at time of tentative subdivision and/or site plan review upon a determination that an alternative system will accomplish the spirit and intent of this requirement, sidewalks shall be installed on those portions of both sides of all roads that have homes fronting on the road.
7. Parking. Any parking provided on any public right-of-way may be counted toward required parking requirements, and one (1) parking space within a garage of a dwelling unit may be counted towards required parking requirements.
8. Garages. Any front-loaded garages shall be located no closer to the street than four (4) feet beyond the front façade of the dwelling unit.
9. Private Driveways and Parking Areas. Private driveways and parking areas, other than those serving individual dwelling units, shall be a minimum of twenty (20) feet in width. Driveways and parking areas serving dwelling units with a garage shall be a minimum of twelve (12) feet in width.
10. Setback from Lonas Parkway and East/West Collector. There shall be a fifty (50) foot setback adjacent to (i) Lonas Parkway and (ii) the East/West Collector Road, and no setback from any other public road.
11. Buffer. A fifty (50) foot buffer shall be provided adjacent to Glen Tara subdivision to comply with the ordinance for fifty (50) foot buffers. (Note: This condition supersedes proffer condition 1 of Case No. 95SN0197.)

#### APPLICABLE TO CONDOMINIUMS

Condominiums shall meet the following requirements:

12. Parcel Area and Density. There shall be no minimum parcel size. There shall be no maximum density for the development, subject to the overall density limitation in Condition 2.
13. Percentage of Parcel Coverage. All buildings, including accessory buildings, on any parcel shall not cover more than forty (40) percent of the parcel's area. No accessory building on any parcel except for private garages and recreation, maintenance and management office buildings on any parcel shall cover more than one hundred (100) square feet.
14. Dwelling Units. No more than ten (10) dwelling units shall be permitted on any one floor level of a building.

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15. Setbacks from Roads and Property Lines. Except as required by Condition 10, there shall be no setbacks from interior private driveways or public roadways.
16. Driveways and Parking Areas. There shall be no setback for private driveways and parking areas except as required adjacent to Glen Tara subdivision.
17. Roads. A second road access (public or private, as determined by the Fire and Life Safety Division at the time of site plan review) shall be designed and constructed to a public road prior to occupancy of more than fifty (50) units. Additional accesses may be required, at the time of site plan approval, where more than two hundred (200) units are constructed. As used herein, the term “access roads” shall be those roads which connect residential clusters to public roads. Access roads shall have a minimum pavement width of thirty (30) feet.
18. Rear Yard Setbacks. Except as required by Condition 10, there shall be no rear yard setbacks.
19. Building Height. Buildings shall not exceed four (4) stories in height.
20. Dwelling Units. Dwelling units may be attached or detached.

#### APPLICABLE TO TOWNHOMES

Townhomes shall meet the following requirements:

21. Lot Area and Width. Each lot shall have an area not less than 1,520 square feet and a lot width of not less than nineteen (19) feet; except end lots in townhouse groups or rows having less than five (5) lots shall have lot area of not less than 2,320 square feet and a lot width of not less than twenty-nine (29) feet and end lots in townhouse groups or rows having five (5) or more lots shall have a lot area of not less than 2,720 square feet and a lot width of not less than thirty-four (34) feet.
22. Percentage of Lot Coverage. All buildings, including accessory buildings, on any lot shall not cover more than sixty (60) percent of the lot's area. No accessory building on any lot except for a private garage shall cover more than 225 square feet.
23. Front Yard. Except as required by Condition 10, there shall be no front yard setback.
24. Side Yard. A side yard of not less than ten (10) feet in width shall be provided for each end residence in townhouse groups or rows having four (4) or fewer lots. Townhouse groups having five (5) or more lots shall have a minimum side yard of fifteen (15) feet.
25. Corner Side Yard. Corner side yards shall be a minimum of twenty-five (25) feet.
26. Rear Yard. There shall be no rear yard setbacks.
27. Driveways and Parking Areas. Except as required by Condition 10 and for required

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buffers adjacent to Glen Tara subdivision, there shall be no setbacks from interior private driveways.

28. Group or Row Design. The total number of lots within each attached group or row of townhouses shall be varied, but in no case exceed ten (10).
29. Density. There shall be no maximum density for the development, subject to the overall density limitation in Condition 2.
30. Buffers. All required buffers shall be located within recorded open space.
31. Common Area. A minimum common area of five (5) feet in width shall be provided adjacent to all groups of lots except where the groups front or abut a public street.

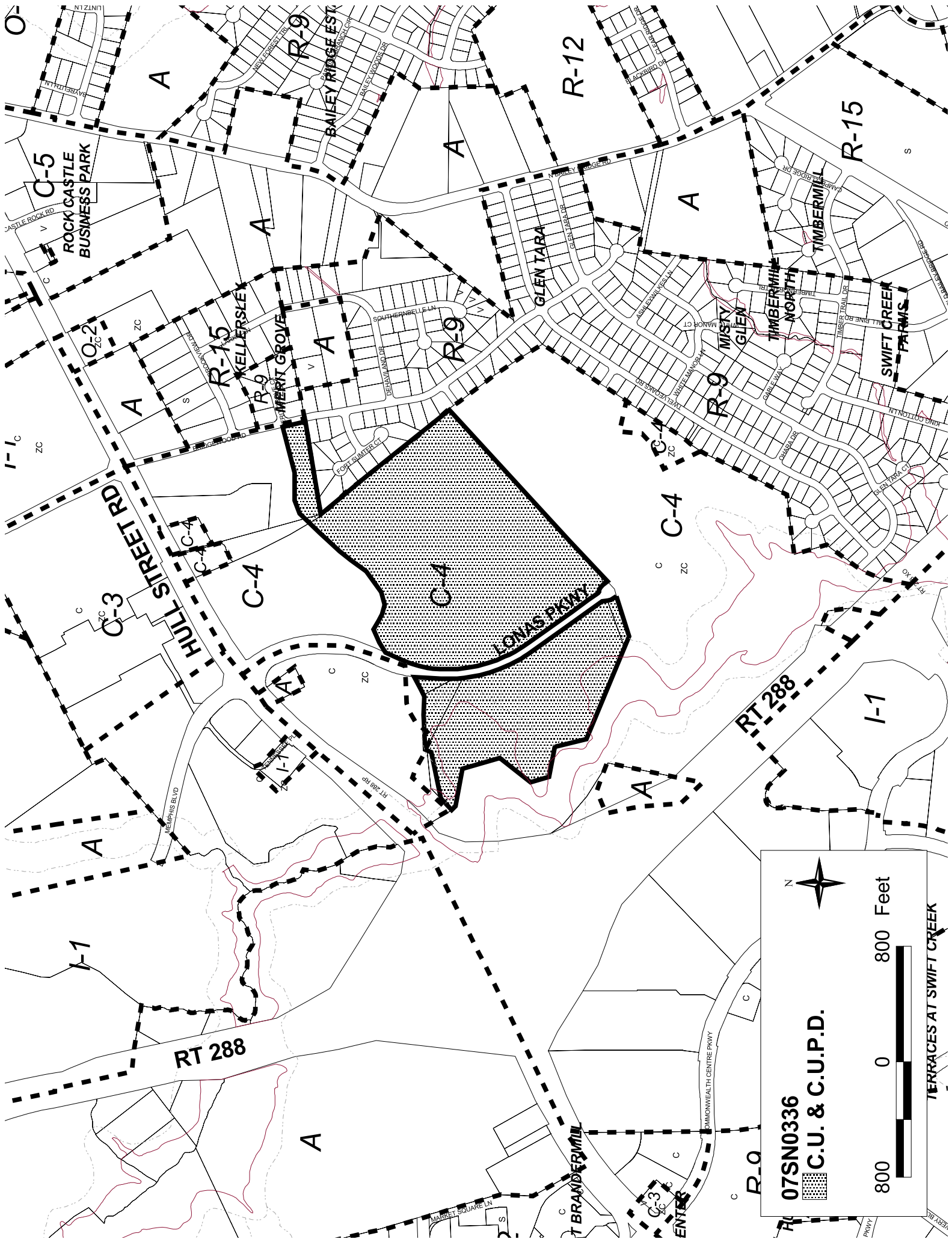
360 CAPITAL PARTNERSHIP, L.L.C.,  
a Virginia limited liability company

By: \_\_\_\_\_  
James W. Theobald, Attorney-in-Fact  
Date: July 6, 2007


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